REMARKS

Claims 2-4, 7-14, 16-19, and 21-23 are now pending in the application. Claim 23 is new and fully supported by the specification and drawings as originally filed. As such, no new matter is added. Minor amendments have been made to claim 7 to simply overcome the objections to the specification and rejections of the claims under 35 U.S.C. § 112. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 112

Claims 2-4, 7-14, and 22 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

Specifically, the Office Action asserts that:

> the limitation "the first and second arc segments of the frame assembly define an opening at the rotation axis for receiving the bone" renders the claim vague and indefinite since it is unclear what structure is being claimed. The arc segments define an opening by virtue of being arc segments.

Page 2 of the Office Action.

Applicants disagree that claim 7 is indefinite. Indeed the limitation quoted above is used to reference the opening of the arc segments, as the Examiner understood it. Nevertheless, to advance the examination of this application, Applicants amended claim

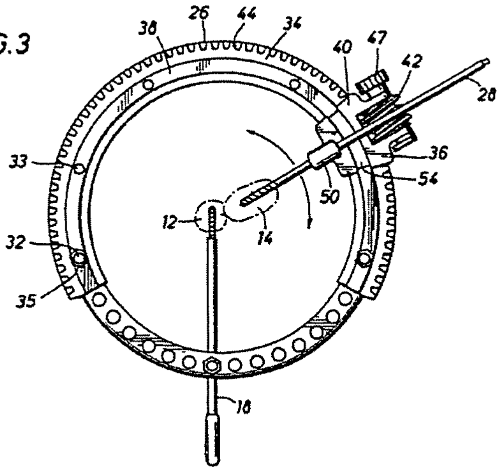
7 to recite that "the first and second arc segments of the frame assembly are concentrically coupled and define an arcuate opening at the rotation axis for receiving the bone". Applicants respectfully submit that this language makes the meaning of the limitation abundantly clear. Reconsideration and withdrawal of this rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. § 102

Claims 2-4, 7-9, 11-14, 16-19, 21, and 22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hotchkiss et al (U.S. Pat. No. 5,372,597). This rejection is respectfully traversed.

Hotchkiss et al discloses a distal bracing section 26 that includes a support ring or rings 30, an adjustment arc 34 having teeth 44, and a slidable carriage 36 connected to the radius 14 of the forearm with a pin 28. The slidable carriage houses a worm drive 42 mating with the teeth 44 to move the slidable carriage 36 along the arc 34. During this motion, the support ring 30 does not move relative to the arc 34. The support ring 30 and the arc 34 are connected with rods 32 which pass through openings 33 in the annular support rings 30 and in the arc 34, and are locked by nuts 35. See column 4, lines 13-17 and FIG. 3 of Hotchkiss et al below:

FIG.3



In contrast, the Applicants' device generally includes a first arc segment 72 including a plurality of teeth 98, a second arc segment 74 rotatable relative to the first arc segment 72, and a drive unit 84 connected to the second arc segment for rotating the second arc segment relative to the first arc segment. See FIG. 17 below:

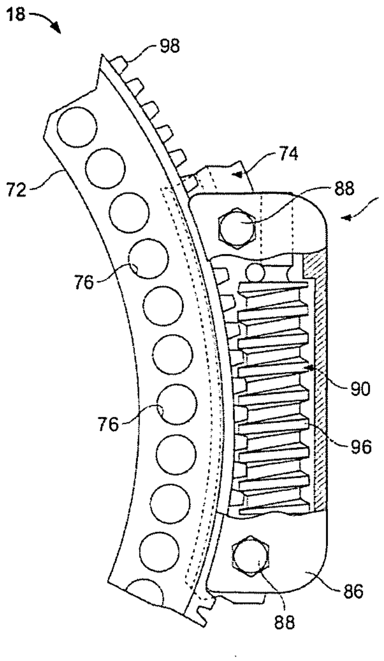


FIG. 17

Present application – FIG. 17

Accordingly, Hotchkiss et al fails to disclose a first arc segment defining a plurality of teeth, a second arc segment rotatably coupled to the first arc segment for controlled relative rotation about a rotation axis defined by the first and second arc segments, and a drive unit attached to the second arc segments for rotatably driving the second arc segment relative to the first arc segment about the rotation axis, as claim 7 recites in addition to other limitations and in the context of the other limitations.

Similarly, Hotchkiss et al fails to disclose rotating the first arc segment relative to the second arc segment about the longitudinal axis of the bone and controlling rotation of the first arc segment relative to the second arc segment with a worm gear mounted on the second arc segment and meshingly engaging a plurality of teeth extending from the first arc segment, as claim 18 recites in addition to other limitations and in the context of the other limitations.

Similarly, Hotchkiss et al fails to disclose controllably rotating the first arc segment relative to the second arc segment about the rotation axis, and actuating a worm gear, wherein the worm gear is connected to the second arc segment and is meshingly engaged with a plurality of teeth extending from the first arc segment, as claim 21 recites in addition to other limitations and in the context of the other limitations.

Therefore, independent claims 7, 18 and 21 are not anticipated by Hotchkiss et al. Claims 2-4, 8-14, 16, 17, 19 and 22 are dependent claims, and at least because of their dependency, are also not anticipated by Hotchkiss et al.

Reconsideration and withdrawal of this rejection is respectfully requested.

NEW CLAIM

Claim 23 is new and fully supported by the specification and drawings as originally filed. As such, no new matter is added. Support can be found, for example, in paragraphs [0050]-[0055] and FIGS. 14-17. Applicants respectfully submit that claim 23 is in condition for allowance for the reasons discussed in connection with claim 7.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: February 20, 2008

By: ____________________
Maria Comninou
Reg. No. 44,626

Stephen T. Olson
Reg. No. 36,626

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

STO/MC/sms